



MEMORANDUM

TO: Mayor Jones and Members of the Board

FROM: Karen Proctor, Town Administrator

DATE: June 18, 2020

RE: Draft Rules of Procedure

DISCUSSION:

On several occasions, the Board has requested a formal Code of Conduct/Rules of Procedure. Attached for discussion is a rough draft of Rules of Procedure. Staff is seeking input if all or any of this is what the Board desires. If the Board is interested in adopting Rules of Procedure there are a few items within the document that will first need to be adopted as Ordinances, such as the Ordinance Procedures and the Ethics Considerations.

ATTACHMENT:

Exhibit A – Draft Board of Trustees Rules of Procedure

Town of Foxfield
BOARD OF TRUSTEES
RULES OF PROCEDURE
June 18, 2020

Authority

These Rules of Procedure are adopted by the Town of Foxfield Board of Trustees pursuant to Section 2-2-10 of the Town of Foxfield Municipal Code. Deviations from these Rules that do not violate any law may be permitted at the discretion of the Mayor.

Roles and Responsibilities

Refer to the Town of Foxfield Municipal Code Chapter 2, Article 2.

Meetings

- 1) The Board of Trustees consists of the Mayor and six Board members. Four members of the Board constitute a quorum.
- 2) An organizational meeting shall be held at the first Board meeting in the month of April following each regular Town election. At this meeting elected Board members and the Mayor-elect shall assume the duties of office; the newly-elected Mayor and Board members shall take their oath of office; and the Mayor Pro Tem shall be elected by the Board.
- 3) Regular Meetings
 - a. Regular meetings of the Board shall be scheduled for the first and third Thursday of each month with the following exceptions:
 - In July only one meeting shall be held on the third Thursday of the month.
 - In December only one meeting shall be held on the second Thursday of the month.

Regular meetings may be rescheduled or cancelled at the discretion of the Mayor, provided that the Board shall meet at least once each month. All meetings will be held at the South Metro Fire Protection District Station #42, 7320 South Parker Road, or at such other venue as Board shall select and provide notice thereof in accordance with applicable law. All meetings will begin at 6:30 p.m. unless otherwise noted on the agenda.

- b. The order of business at regular meetings shall be as follows unless adjusted by the Mayor.

1. Call to Order
2. Pledge of Allegiance
3. Roll Call of Board Members
4. Audience Participation
5. Consent Agenda
6. Items Removed from Consent Agenda
7. For Discussion
8. For Possible Action
9. Reports
 - a. Mayor
 - b. Members of Town Board
 - c. Town Administrator and Staff
 - e. Town Attorney
10. Adjournment

c. The Mayor may adjust the order of business and allow scheduled presentations at a time and in a manner most convenient for the public, staff, and Board.

- 4) Special meetings of the Board shall be called by the Town Clerk on the oral request of the Mayor, or of any two members of the Board, on at least 24 hours' advance written or telephonic notice to each member of the Board, but a special meeting may be held on shorter notice if all members of the Board are present or those absent waive notice thereof.
- 5) The purpose of a study session shall be to hear, study, and discuss matters in a forum that allows for more attention to the matter than a regular meeting. Study sessions shall be open to the public, but audience participation will not necessarily be taken. No business shall be transacted, and no formal action shall be taken at a study session. However, the Board may by consensus provide Town staff with direction concerning agenda-related items. When possible, study sessions shall be held on the first Thursday of the month.
- 6) Executive Sessions
 - a. Executive sessions may only be held at a regular or special meeting and shall comply with the provisions of C.R.S. 24-6-402.
 - b. A motion to move into executive session from a regular or special meeting shall set forth the matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized. The motion shall include specific citation to the provision of C.R.S. 24-6-402 authorizing the executive session. The motion shall be approved by a 2/3 majority of the Board members present on roll call.

- c. The Board shall make no final policy decision, nor shall it adopt or approve any resolution, rule, ordinance, regulation, or formal action at any session closed to the general public.
- d. Discussions that occur during executive session, except attorney-client privileged communications as identified in C.R.S. 24-6-402(d.5)(II)(A), shall be recorded by making an audio recording that shall be retained for ninety days after the date of the executive session. The audio recording shall be kept for the required 90 days by the Town Attorney unless the Town Attorney was the topic of the executive session.
- e. All persons present shall preserve the confidentiality of the matters discussed in executive session.

7) Agendas and Council Packet

- a. The agenda shall be maintained by the Town Clerk and may be modified by the Town Administrator or Mayor. Any Board member may submit to the Town Clerk items for the agenda, which shall be included on the agenda for the next scheduled meeting if provided to the Town Clerk at least 24 hours prior to distribution of the Council packets. Agendas shall be posted at the location designated by Board for notices of meetings at least 24 hours prior to any regular or special meeting. The agenda shall also be made available to the public through the Town website.
- b. The Board meeting packet shall generally be provided to Board members no later than the Friday preceding any regularly scheduled meeting. Supporting information not available the Friday before the meeting may be provided to Board at the meeting. The Board packet shall be made available to the public through the Town website or by request made to the Town Clerk.

8) The Mayor, Mayor Pro Tem, or other designated Board member in their absence, shall serve as the presiding officer in the conduct of meetings. In the event of absence or disability of both the Mayor and the Mayor Pro Tem, the Board shall designate another of its members to serve as Acting Mayor during such absence or disability. Any Mayor Pro Tem or Acting Mayor, while serving as such, shall retain all powers granted to Board members by the Municipal Code. References to the Mayor's powers and duties during a Board meeting in these Rules shall apply to the presiding officer at the meeting.

9) At all times, the discussions and motions of the Board and remarks of members of the public shall be directed to the Mayor and shall be preceded by recognition from the Mayor.

10) General Discussion

- a. Each member of the Board shall be afforded an opportunity to speak on the matter under discussion before moving on to another topic of discussion. The Mayor may set a time limit on any such discussion by members of the Board.
- b. Board members shall not be permitted to explain their vote during a roll call. Such explanation is permitted during the discussion of the question or motion.

11) Audience Participation

- a. Any person may speak to the Board on any matter during the Audience Participation period at the beginning of each regular and special meeting. The Town Clerk shall provide an audience participation sign-up form before each regular meeting. Immediately prior to the audience participation portion of the meeting, the Town Clerk shall hand the sign-up form to the Mayor. The Mayor shall call those signed up to speak before the Board in the order they have signed up.
- b. Audience participation shall be limited to 4 minutes per speaker.
- c. The Mayor may restrict cumulative or redundant presentations.
- d. Those attending Board meetings shall refrain from disruptive, vulgar, or abusive language, applause, heckling or other actions that interfere with the orderly function of the Board. The Mayor may take any reasonable steps to maintain the order and dignity of the Board meetings.

12) Public Hearings

- a. Public hearings will be held as required by the Municipal Code. The Mayor will open each hearing and allow any person in attendance to address the issue subject to the rules contained in Section 11 concerning audience participation. The purpose of any Public Hearing shall be to: (1) allow applicants an opportunity to present evidence in support of their application; (2) ensure compliance with due process principles; and (3) provide everyone an opportunity to present their views and recommendations on the issue that is the subject of the hearing.
- b. The Mayor and Board members shall not debate or challenge the position of any speaker but may question a speaker to fully understand their position. The Mayor and Board shall reserve their comments on public testimony until the issue is before the Board for discussion.
- c. Written communications submitted directly to Town staff or Trustees must be submitted at least 24 hours in advance of the public hearing to ensure inclusion in the record. Written comments or postings related to a public hearing that are submitted on the Town's social media, such as Nextdoor, shall not be considered part of the record, unless specifically included in the record via staff report or by acknowledgement of the Board. All written materials submitted to the Town Clerk or the Board at the public hearing shall be considered part of the record.

13) Method of Voting

- a. On motions that do not require a roll call of votes, the Mayor shall ask that all those in favor of the motion signify by saying yes. Those members in favor shall give said sign. The Mayor shall then ask that all those opposed signify by saying no. Those members opposed shall give said sign. The Mayor shall signify if the motion passes or fails. The Town Clerk shall record the results of the motion in the minutes of the meeting.
- b. On motions that require a roll call of votes, the Mayor shall ask the Town Clerk for a roll call. The Town Clerk shall perform the roll call and record each member's vote in the minutes. The Mayor shall signify if the motion passes or fails.

14) Conflict of Interest

If a member of the Board has a personal, financial or other conflict of interest, or appearance thereof that would affect public confidence in any matter to be voted upon or otherwise officially considered, deemed by the affected Board member to require recusal, then a brief statement of such disclosure shall be presented prior to any consideration of the matter by the Board, and the recusing Board member shall then not participate in any discussion or vote of the matter.

15) Minutes

Record of proceedings shall be taken by the Town Clerk in the form of written minutes as well as audio recording. Written minutes will be prepared by the Town Clerk and be presented for the Board's approval at the next regular or special meeting. Following approval, the written minutes will be made available to the public on the Town website.

Ordinances

- 1) Any legislative action by the Board shall be by adoption of an ordinance. All other matters may be decided by adoption of a motion or resolution as the Board deems appropriate.
- 2) The Mayor, any Board member, or the Town Administrator may request that a proposed ordinance be placed on the agenda. A proposed ordinance may be introduced by any member of the Board. Introduction may be by title only, or in full text. Where feasible, the person proposing the ordinance may present the proposed text together with a written or oral explanation for the purpose and content of the proposed ordinance at a regularly scheduled meeting for discussion before first consideration.
- 3) Any ordinance that has been first discussed shall then be placed on the agenda of the next regular or special Council meeting for second and final consideration provided said meeting is at least six days after first consideration. The proposed ordinance must be completed in written form and a copy provided to each Board member before second

consideration. If a public hearing is required for the second consideration of an ordinance, then said ordinance shall be placed on the agenda of the next regular or special meeting after the required publication is accomplished.

- 4) If an Emergency ordinance is deemed necessary, it shall go into effect immediately without a second reading or the 30-day waiting period.

Conflicts of Interest and Ethical Considerations

- 1) Disclosure of personal interest in nonvoting matters
All Board members shall disclose any personal interest they have relative to any matter brought before the Board that would lead a reasonable person to infer that it affects their exercise of discretion. In addition, the Board member may, to the extent allowed by law, ordinance or policy, recuse himself/herself from involvement in the matter.
- 2) Acceptance of gratuities, etc.
A Board member may not accept, directly or indirectly, any money, gift, gratuity or other consideration or favor of any kind from anyone other than the Town:
 - a. For the performance of an act, or refraining from performance of an act, that he/she would be expected to perform, or refrain from performing, in the regular course of his duties; or
 - b. That might reasonably be interpreted as an attempt to influence his/her action, or reward him/her for past action, in executing Town business.
- 3) Use of information
 - a. A Board member may not disclose, except as authorized by law, any information obtained in his/her official capacity that is made confidential by the Town code, state or federal law.
 - b. A Board member may not use or disclose information obtained in his/her official capacity with the intent to result in financial gain for himself/herself or any other person or entity.
- 4) Use of Town time, facilities, etc.
 - a. A Board member may not use or authorize the use of Town time, facilities, equipment or supplies for private gain or advantage to himself/herself.
 - b. A Board member may not use or authorize the use of Town time, facilities, equipment or supplies for private gain or advantage to any private person or entity, except as authorized by a legitimate contract or lease that is determined by the governing body to be in the best interests of the Town.
- 5) Use of position or authority
 - a. A Board member may not make or attempt to make private purchases, for cash or otherwise, in the name of the Town.

b. A Board member may not use or attempt to use his/her position to secure any privilege or exemption for himself/herself or others that is not authorized by general law, ordinance or Town policy

6) Ethics complaints

- a. The Town Administrator is designated as the ethics officer of the Town. Upon the written request of a Board member potentially affected by a provision of this Article, the Town Administrator may render an oral or written advisory ethics opinion based upon this Article and other applicable law.
- b. Except as otherwise provided in this Subsection, the Town Administrator shall investigate any credible complaint against an appointed official charging any violation of this Article, or may undertake an investigation on his/her own initiative when he/she acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the Town Administrator's judgment, constitutes a violation of this code of ethics. The Town Administrator may request that the Board hire an attorney, individual or entity to act as ethics officer when he/she has or will have a conflict of interest in a particular matter.
- c. When a complaint of a violation of any provision of this Article is made against a member of the Board, the Board shall either determine that the complaint has merit, determine that the complaint does not have merit or determine that the complaint has sufficient merit to warrant further investigation. If the Board determines that a complaint warrants further investigation, it shall authorize an investigation by the Town Administrator or another individual or entity chosen by the Board.
- d. The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.
- e. When a violation of this code of ethics also constitutes a violation of a personnel policy, rule or regulation, the violation shall be dealt with as a violation of only the personnel provisions and not as a violation of this Article.

7) Violations

A Board member who violates any provision of this Article is subject to punishment as provided by the Town Code or other applicable law and, in addition, is subject to censure by the Board. A Board member who violates any provision of this Article is subject to disciplinary action.

Attendance and Absences

- 1) The Board must have a quorum to do business. Therefore, governance of the Town requires that all members of the Board attend meetings to fulfill their obligation to the citizens of Foxfield by fully participating in the process of government. Additionally, each member of the Board has an obligation to his or her fellow members to be informed and attend Board meetings.
- 2) If it is necessary for a Trustee to be absent from a regular meeting of the Board, the Trustee shall notify the Mayor and Town Clerk prior to the meeting.
- 3) If it is necessary for the Mayor to be absent from a regular meeting of the Board, the Mayor shall notify the Town Clerk prior to the meeting.

Finances

- 1) Each individual elected to the offices of Mayor and the Board of Trustees shall receive compensation at a rate of one hundred (\$100.00) per month, less taxes.
- 2) The Town shall pay or reimburse the Mayor and Board members for necessary bona fide expenses incurred in service on behalf of the Town if authorized, itemized and maintained as a matter of public record. The Town will pay or reimburse the Mayor and Board members for travel expenses and mileage allowance according to the IRS mileage reimbursement rate.
- 3) The Town will not pay or reimburse the Mayor or Board members for any costs associated with a member's spouse attending any related function.

Electronic Mail and Social Media

- 1) Electronic communications such as email shared among the Board may constitute a meeting for which open meetings and open records requirements may apply. The Town of Foxfield Use and Retention Policies and Procedures for Electronic Mail included as Appendix A to these Rules shall provide a guide to elected officials.

Amendment of Rules

- 1) Any additions hereto or modifications or amendments hereof shall be submitted in writing at a regular meeting and shall be acted upon no sooner than at the next meeting of the Board as an agenda item. This requirement may be waived only upon the unanimous affirmative-recorded vote of all members of the Board.

Robert's Rules of Order

- 1) To the extent helpful, relevant, and not inconsistent with these Rules, Robert's Rules of Order Newly Revised shall apply.

DRAFT

Town of Foxfield
Use and Retention Policies and Procedures for Electronic Mail
October 21, 2010

The use of e-mail communications has implications under the Colorado Open Meetings Law, Section 24-6-401, et seq., and the Colorado Open Records Act (CORA), Section 24-72-201, et seq. The policies and procedures need to ensure that the practices of elected officials comply with the statutory requirements of both of these laws.

Electronic Mail (E-mail) – An electronic message that is transmitted between two or more computers or electronic terminals, whether or not the message is converted to hard copy format after receipt and whether or not the message is viewed upon transmission or stored for later retrieval. Mail received or sent, in any format, contains a variety of information, or content, and each e-mail should be managed in a way that is appropriate for its content. Treat each e-mail as if it were received in a paper format through the mail. The Board's e-mail likely will fall into three general categories:

- **Enduring Long-Term Value** – Documentation or correspondence with enduring and long term administrative, policy, legal, fiscal, historical, or research value; records that relate to policy issues and actions or activities in which an important precedent is set; records of historic events relating to the municipality or the community; and other similar records and documentation. These documents have a permanent retention period.
- **Routine Value** – Operating documentation that is routine and contains no significant administrative, legal, fiscal, historical, informational or statistical value. Includes routine letters or memoranda sent and received, reading or chronological files that are kept solely for convenience and contain duplicates of memos or letters that are also filed elsewhere, routine requests for information, transmittal documents, etc. These documents have a retention period of one year plus the current year.
- **Transitory Value** – General documentation of extremely short-term value, including advertisements, drafts and worksheets, desk notes, copies of materials circulated for informational "read only" purposes, other records with preliminary or short-term informational value. These documents can be destroyed once they are read.

Use of Email Communications by Public Officials

• E-mail communications between three or more elected officials concerning public business and/or pending legislation are declared to be a public meeting and are prohibited.

- The following e-mail communications from or to an elected official or officials are permitted:
 - a) Communication between elected officials that does not relate to pending legislation or other public business.
 - b) Communication between fewer than three elected officials in which other elected officials are not copied and which are not forwarded to other elected officials.
 - c) Communication from or to a staff person or Town Attorney

- d) Communication between elected officials concerning routine administrative matters, e.g. those regarding scheduling meetings; requests to staff for factual information or status reports

Retention Policies Applicable to E-mail Communications

- E-mail communications of elected officials may be considered public records under the Colorado Open Records Act. The Colorado Municipal Record Retention Schedule applies to e-mail communications in the same manner as other records.
- Correspondence of elected officials is specifically designated a public record. Correspondence is defined as "communication sent or received by elected officials that is or can be produced in written form, including communication sent by mail, courier or e-mail." A record is an e-mail that sets or discusses policy, establishes guidelines or procedures, certifies a transaction, or becomes a receipt.
- Types of correspondence that are **not** a public record include the following:
 - a) Work Product - all advisory or deliberative materials assembled for the benefit of elected officials and is communicated for the purpose of assisting elected officials in reaching a decision in the scope of their authority. Such materials may include notes and memoranda that relate to or serve as background information for such decisions and preliminary drafts and discussion copies of documents that express a decision by an elected official.
 - b) Deliberative materials – all information that may be a "deliberative process" or privilege, for the purpose of assisting elected officials in reaching a decision within the scope of their authority.
 - c) Correspondence received from or sent to the Town Attorney's office.
 - d) Correspondence that is "without a demonstrable connection to the exercise of functions required or authorized by law or administrative rule and does not involve the receipt or expenditure of public funds".
- Elected Officials shall delete "transitory value", or "non-record" emails as soon as they no longer serve an administrative purpose.
- Elected Officials shall copy the Town Clerk on all "routine" and "enduring long term value" e-mail correspondence considered to be a public record. The Town Clerk shall evaluate the correspondence and retain according to the State Municipal Record Retention Schedule.
- Whenever there is a doubt as to whether a record is a non-record, or subject to retention, the Town Clerk will be consulted to determine the status of the e-mail.
- Where e-mail communications are between a Town sender (creator) and a Town recipient, the senders copy is designated as the copy of record and it is the sender who is responsible to complete the analysis required by this policy and treat the e-mail accordingly. All other copies are merely "duplicates" and can be disposed of immediately. This provision does not apply to e-mails received or sent outside the Town.

- E-mails should be reviewed at least every 15 days. Elected Officials should empty their computer waste basket every 15 days.
- If the content of an e-mail message is related to an actual or pending litigation, audit, investigation or other legal proceeding as determined by the user or the Town Attorney's Office, it may not be destroyed without the express written approval of the Town Attorney's Office.